

No. 9(1)-82-PV-6Lab/9897.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Faridabad Auto Industries Pvt. Ltd., Plot No. 63, Sector 6, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 320/1981

between

SHRI PRABHU NATH YADAV, WORKMAN AND THE MANAGEMENT OF M/S FARIDABAD AUTO INDUSTRIES PVT. LTD., PLOT NO. 63, SECTOR 6, FARIDABAD

Present:—

Shri Darshan Singh, for the workman.

Shri R.S. Sharma, for the management.

AWARD

The Government of Haryana referred the following dispute between the workman Shri Prabhu Nath Yadav and the management of M/s Faridabad Auto Industries Pvt. Ltd., Plot No. 63, Sector 6, Faridabad, by order No. 1D/FD/29/81/48516, dated 25th September, 1981, to this Tribunal for adjudication, in exercise of powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Prabhu Nath was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my order, dated 24th December, 1981:—

(1) Whether the workman was absent? If so, to what effect?

(2) Whether the termination of service of Shri Prabhu Nath was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management. The management examined Shri Ramesh Dogra, Time Office Clerk as MW-1 and the workman examined himself as his own witness. Arguments were heard.

Issue No. 1.—MW-1 deposed that he had brought attendance record. Exhibit M-1 was extract of the register pertaining to the workman. The management did not receive any medical certificate of the workman from 11th May to 23rd May, 1981. Later on medical certificate Exhibit M-2 was received in envelope in Exhibit M-3. Copy of Certified Standing Orders applicable to the management was Exhibit M-4. Previously name of the factory was Specer Lock and later on the present name was given. Copy of the appointment letter of the workman was Exhibit M-5 on which appear the signature at mark 'A'. In cross-examination, he replied that Shri H.P. Sharma was Works Manager of the Factory. Attendance record was maintained by him (witness). The name of the workman was struck from 24th June, 1981. No letter was received from the workman after 6th June. No letter was sent to the workman nor any charge-sheet was given. He was also not paid any retrenchment compensation. He admitted that the workman was on leave up to 11th May, 1981. Medical certificate Exhibit M-2 was received on 24th May, 1981. He denied the suggestion that the workman had come with fitness certificate to him.

The workman concerned deposed that he had gone on sanctioned leave from 11th April, 1981 to 10th May, 1981. He fell sick at his home. He applied for medical leave twice through registered A.D. Post. Postal receipts were Exhibit W-1 and W-2. He also brought fitness certificate Exhibit W-3 when he reported for duty. He did not receive any letter from the management at his home. He also did not receive notice pay or compensation etc. He went to the management 3-4 times for duty but he was not allowed to work. In cross-examination he stated that he was suffering from urinary trouble. He got treatment from Dr. Ash Mohammad. In the fitness certificate, it was correctly written that he remained sick from 25th May, 1981 to 1st July, 1981. He had also sent medical certificate from 7th May, 1981 to 28th May, 1981, from the same doctor.

I have gone through the attendance record Exhibit M-1 and find that the workman was on leave with effect from 10th April, 1981 to 10th May, 1981, after which he was marked absent up to 23rd May, 1981 and leave from 24th to 28th May, 1981. Later on, he was shown on absent up to 22nd June, 1981 and then word 'left' appears

in the attendance record. The workman produced postal receipts Exhibit W-1, W-2 and fitness certificate Exhibit W-3. Postal receipt for registered envelope Exhibit M-3 in which medical certificate Exhibit M-2 was sent is Exhibit W-2, dated 7th May, 1981. This certificate is also dated 7th May, 1981, advising rest for 20 days. Exhibit W-1 is dated 8th June, 1981. The management had not produced any letter despatched to the workman. The management continued the name of the workman on the rolls and also marked leave up to 28th May, 1981. Later on the workman was marked absent as there is no application for the period from 29th May to 8th June, 1981. Thus it was clear that he remained absent without any intimation but the management continued his name up to 22nd June. The workman according to him, reported for duty in the month of July. It was correct that according to clause 16(4) of the Certified Standing Orders, copy Exhibit M-4, the workman was liable to lose his lien of service in case he remained absent for 10 days.

The arguments of the learned representative for the management that the workman had rendered himself liable for termination by remaining absent without any leave, was correct so far as his letter of appointment and a provision in the Standing Orders of the company was concerned but now this aspect of the case had been gone into by the Hon'ble Supreme Court in a number of cases. The striking of name was termination as held in 1978-I-LLJ-Page I. This case was further discussed and retrialled in the case of Smt. Santosh Gupta *versus* State Bank of Patiala 1982-II-LLJ-Page 72 in which it was held :—

It the definition of "retrenchment" is looked at unaided and unhelped by precedent, one is at once struck by the remarkably wide language employed and particularly use of the words "termination.....for any reason whatsoever. The definition expressly excludes termination of service as a "punishment inflicted by way of disciplinary action".

This case D.C.M. and Bhambu Nath Mukerjee (1978-I-LLJ-page I) was further discussed in L.R. D' Souza *versus* Executive Engineer, S. Railway, 1982-LLJ-page 320 and the Hon'ble Supreme Court retrialled its earlier verdict. Therefore, the provision of loss of lien in the Standing Orders had become redundant in case section 25-F of the I.D. Act was not complied. It was an admitted fact that the concerned workman had more than one years' service at his credit and it was also admitted that his service was not terminated as a matter of disciplinary action. The fact remained that the termination amounted to retrenchment as defined under section 2(OO) of the Industrial Disputes Act which make it obligatory upon the management to follow the provision of section 25-F of the Act and make payment of compensation to the concerned workman as given in the section which has not been paid. Therefore, the order of the management becomes void.

In view of my foregoing discussion, I pass my award that the termination of the service of the workman not in order. He was, therefore, entitled to his reinstatement with full back wages.

Dated the 1st September, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 991, dated 14th September, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)82-PV-6 Lab/9940.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s Secretary, Haryana State Electricity Board, Chandigarh; (ii) X.E.N. H&M Division. PTPP, Haryana state Electricity Board, Panipat.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR
COURT, HARYANA, FARIDABAD

Reference No. 76 of 1981
between

SHRI DHARAM VIR, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S (i) THE SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH; (ii) EXECUTIVE ENGINEER, H&M DIVISION, PTPP, HARYANA STATE ELECTRICITY BOARD, PANIPAT

Present—

Shri Sagar Ram Gupta, for the workman.
Shri S.S. Sarohi, for the respondent-management.

AWARD

This reference No. 76 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana, —*vide* his order No. ID/KNL/99-80/7943, dated 13th February, 1981 under section 10(i) (c) of the Industrial Disputes Act, 1947, existing between Shri Dharam Vir, workman and the respondent-management of (i) The Secretary, Haryana State Electricity Board, Chandigarh, (ii) Executive Engineer, H&M Division, PTPP, Haryana State Electricity Board, Panipat. The terms of the reference was :—

“Whether the termination of services of Shri Dharam Vir was justified and in order? If not, to what relief is he entitled ?”

On receipt of order of reference, the notices were issued to the parties. The parties appeared and filed their pleadings. The case of the workman according to demand notice and claim statement is that the workman was working with the management since 1975 as Shift Attendant. His work and conduct was satisfactory. The management on 14th July, 1977 terminated the services of the workman orally and without any reason, which is quite illegal, unjustified and against the provision of Industrial Disputes Act, 1947. The act of the management is illegal because many junior to the workman were kept by the management and some new persons were appointed. So the workman is entitled for the reinstatement with full back wages and continuity of service.

The case of the respondent according to written statement is that the claim of the claimant is bad for non-joinder of necessary parties and for laches and delays. The workman was appointed on a contract for the period of six months in the year 1975 and the contract started w.e.f. 11th July, 1975 and ended on 10th January, 1976. Then fresh contract of service was entered on the services of the workman were accordingly ceased from time to time. The last contract was entered between the workman and the respondent on 15th January, 1977 and expired on 14th July, 1977 and the workman according to term of the contract submitted his departure report on 14th July, 1977. The management never terminated the services of the workman rather the workman on the expiry of the contract period left the job. Since the workman left the services on 14th July, 1977 and did not applied for further contract or employment, the other suitable persons were allowed to work. Since the terms and conditions of the employment of the workman were based on a contract so Section 25-F of the Industrial Disputes Act is also not applicable in this case. The claimant was never retrenched by the respondent but the workman left the services on the expiry of the contract period. The management is ready to pay the retrenchment compensation admissible under the rules. As the services of the workman was never terminated by the respondent so the workman is not entitled for full back wages and continuity of services and the reference may be rejected.

On the pleadings of the parties, following issues were framed :—

- (1) Whether the reference is bad due to non-joinder of necessary party and delay in demand notice ? If so, to what effect ?
- (2) As per reference.

My findings on the issues are as under :—

Issue No. 1.—Both the parties did not press this issue nor they led any evidence on this issue, and given the evidence on termination of the workman. Moreover, the workman has impleaded the Secretary of H.S.E.B., Chandigarh and Executive Engineer, H&M Division, PTPP, Panipat, his head of the department and his immediate employer. In these circumstances I decide this issue in favour of the workman and against the respondent.

Issue No. 2.—Issue No. 2 is as per reference. On this issue the representative of the respondent argued on this issue that as stated by MW-1 Shri M.M. Mehta, Xen, Thermal, the workman was appointed on a contract for a period of six months w.e.f. from 11th July, 1975 to 10th January, 1976. Then fresh contract of service was entered and ceased from time to time. The last contract was entered between the workman on 15th January, 1977 and on the expiry of that contract the workman submitted the departure report Ex. M-2 on 14th July, 1977 and left his job. The appointment letter of the claimant is Ex. M-1. The departure report of the claimant was accepted by the Officer Incharge. He further argued that the workman has given a letter photo copy of which is Ex. M-3. The workman never submitted any representation after his termination. He further argued that the workman has admitted in his cross-examination that he was appointed on *ad hoc* basis and he was given the appointment letter Ex. M-1 and he has given arrival and acceptance Ex. M-4 and M-5. The workman has stated in his cross-examination Ex. M-2 was got written forcibly but he has not made any complaint in this regard. If it would have been taken by force it is duty of the workman to make a complaint to the appropriate authority. He further argued that the workman left his services on 14th July, 1977 and did not applied for further contract or employment, so other suitable person were allowed to work. The representative of the respondent further argued that the terms and conditions of the employment of the workman were based on a contract so the provisions of section 25-F is not applicable in this. However, the management is agreed to pay the retrenchment compensation to the workman. He further argued that the junior persons were not appointed and the principle of last come first go is not applicable in this case. In these circumstances the management has not terminated the services of the workman but on the expiry of service contract the workman left his job. So the workman is not entitled to any relief.

The representative of the workman argued on this issue that as stated by the workman as WW-1 the workman was appointed on 11th July, 1975 as Shift Attendant and his salary was Rs. 362 per month. The nature of work of the claimant was of permanent nature and the respondent terminated the services on 11th July, 1977 verbally. He further stated that the workman was not given any notice or retrenchment compensation at the time of termination. He further stated that the respondent got written Ex. M-2 from the workman, but he has written this document under pressure. He further argued that after termination the workman has written Ex. W-2, W-3 and W-4 to the Secretary, H.S.E.B., Chandigarh and Labour Inspector for his re-instatement. He further argued that Shri M.M. Mehta, Xen, Thermal Power Project, Panipat has admitted in his cross-examination that the workman was working continuously from the date of appointment till termination i.e. 14th July, 1977. This witness has also admitted in his cross-examination that the workman was not given any retrenchment compensation and one month notice or notice pay. He further argued that if the management want to retrench the workman they should have paid the retrenchment compensation and notice pay in lieu thereof which the management has failed to do. The workman has stated that junior persons are working in the respondent-management but the respondent has not rebutted this statement of the workman nor they submitted any seniority list to say that he was retrenched being junior most. He further argued that the plea of the respondent that the workman was appointed on contract basis is wrong and the respondent witness has admitted in his cross examination that the workman was working continuously from 1975 to 14th July, 1977. The workman never left his job but the respondent terminated his services on 14th July, 1977 without any reason which is quite illegal, unjustified and the principles of natural justice and junior persons were kept in employment, so the workman may be reinstated with full back wages and continuity of service.

After hearing the arguments of both the parties and going through the file, I am of the view that the workman was a permanent employee of the respondent having two years of service in his credit. The respondent terminated his services without complying the provisions of Section 25-F of the Industrial Disputes and juniors were retained and not paid any retrenchment compensation which is illegal and against the law. The respondent has stated that they had appointed the workman on contract basis but they had not submitted any contract deed in this court. The workman approached the management and the Labour Department from time to time,—vide Ex. W-2 to W-4 for his reinstatement. In these circumstances I feel that the termination of services of the workman is wrong, unjustified and illegal. So the workman is entitled for the reinstatement with full back wages and continuity of service.

This be read in answer to this reference.

Dated the 17th September, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 2070, dated the 22nd September, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 12th/15th October, 1982

No. 9(1)82-PV-6Lab/10010.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. K.K. Spun Pipe, Tigaon Road, Ballabgarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 7/1981

between

SHRI RAM JATAN; SINGH WORKMAN AND THE MANAGEMENT OF M/S. K.K. SPUN
PIPE, TIGAON ROAD, BALLABGARH

Present :

Shri Darshan Singh for the workman.
Shri R.L. Aneja for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Ram Jatan Singh and the management of M/s K.K. Spun Pipe, Tigaon Road, Ballabgarh, by order No. ID/FD/94/80/3984, dated 22nd January, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Jatan Singh was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my order, dated 6th April, 1981 :—

- (1) Whether the workman abandoned his job of his own ?
- (2) Whether the termination of services of Shri Ram Jatan Singh was justified and in order ? If not, to what relief is he entitled ?

And the case was fixed for the evidence of the management, who examined Shri Ishwar Chand Partner as MW-1 and the workman examined himself as his own witness. Arguments were heard.

Issue No. 1.—MW-1 deposed that the concerned workman joined service in January, 1980. He remained absent from 9th March, 1980 to 24th March, 1980. He received full and final accounts. He was not removed from service. Copy of attendance record were Ex. M-1 and M-2 which were correct and prepared by him. Now they leased out the factory. In cross-examination, he admitted that E.S.I. was enforced in the factory. He did not know code number. He did not issue any call letter to the workman nor amount was sent to him. The workman had received his wages Rs. 62.02. He was not paid anything in addition to it. The workman did not resign nor he was issued any receipt for full and final settlement. He denied the suggestion that the workman had joined service in 1978. He had no record to show that he had left his service in 1978.

The concerned workman deposed that he joined service on 3rd July, 1978. His Supervisor was Shri Chhotte Lal. He never left the service of the management. His service was terminated on 17th April, 1980. The company had issued him E.S.I. Card Ex. W-1 which was signed by the manager with stamp. The manager had also issued Ex. W-2 to him. He had asked for minimum wages which was the cause of removal from his service. In cross-examination, he replied that he had received his wages for the month of March. He denied that he had received Rs. 62.02. He also denied that he was absent from 10th April to 24th April, 1980 rather he attended duty upto 16th April, 1980. He did not know the rate of revised wages.

I have gone through the documents Ex. M-1 attendance card, in which the workman was shown absent from 9th March, 1980 to 24th March, 1980 and Ex. M-2 in which the payment of wages was shown. The workman produced Ex. W-1 which was dated 10th September, 1978. It means that he was in service in the year 1978. The management has failed to prove that he joined service in 1980 for the 1st time. The management has also failed to prove that the workman had settled his account because no such receipt or document was placed on file by the management nor some creditable evidence was led. The management has neither proved any letter issued to the workman in case he remained absent. Therefore, I am unable to accept the plea that he abandoned his job of his own.

Issue No. 2.—In case, I accept the plea of the management that it was a case of abandonment as stated in the written statement there was nowhere to show that any letter of striking off name was written to the workman. The law on the subject was laid down by the Hon'ble Supreme Court in D.O.M. General Mill *versus* Shambu Nath Mukerjee 1978-I-LLJ-Page-I where it was held that striking off name of a workman from the muster roll of the management was termination of the service. It was retrenchment within the meaning of section 2(OO) of the Industrial Disputes Act. It was further reiterated in Satosh Gupta *versus* State Bank of Patiala 1980-II-LLJ-Page 72. In this case their Lordship of the Supreme Court set out law and scope of section 2(OO) in the following words :—

"If the definition of "retrenchment" is looked at, unaided and hampered by precedent, one is at once struck by the use of the words "termination..... for any reason whatsoever". The definition expressly excludes "termination of service as a punishment inflicted by way of disciplinary action". The definition does not include, so it expressly says, voluntary retirement of workman or retrenchment of the workman or reaching the age of superannuation or termination of the services of the workman on the ground of continuous ill health. Voluntary retirement of a workman or retrenchment of the workman on reaching the age of superannuation can hardly be described as termination, by the employer, of the service of a workman. Yet the legislature took special care to mention that they were not included within the meaning of "termination by the employer of the service of a workman for any reason whatsoever".

It is case of the both parties that compliance of Section 25 (F) of the Industrial Disputes Act, 1947 was not done. The service of the workman being of more than one year. According to the Section, it was incumbent upon the management to pay one month notice pay and retrenchment compensation admissible to him under

Section (d) of 25-F at the time of termination of service. In this circumstance, I find that the order of the management was not in order. As regard the contention of the management that the factory had been leased out on monthly rent of Rs. one thousand it had no effect upon the merits of the present case. There was provision in the Industrial Disputes Act and Rules under Industrial Disputes Act compliance of which was necessary in such case. In this circumstance, I find that the workman is entitled to his reinstatement with full back wages.

While answering the reference, I pass my award that the workman is entitled to his reinstatement with full wages.

Dated the 13th September, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1023, dated the 22nd September, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-PV-6Lab-10013.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Saraswati Spinning Mills, Bhiwani :—

BEFORE SHRI M.C., BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 95/1978

between

THE WORKMEN AND THE MANAGEMENT OF M/S SARASWATI SPINNING MILLS, BHIWANI

Present.—Shri Balbir Singh for the workmen.

Shri Surinder Kumar Partner for the management.

AWARD

The Governor of Haryana referred the following dispute between the management of M/s. Saraswati Spinning Mills, Bhiwani and its workmen, by order No. ID/HSR/680-77/16886, dated 3rd May, 1978, to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workmen are entitled to the grant of bonus for the years 1974-75, 1975-76, and 1976-77? If so, with what details?
- (2) Whether the workmen should be made permanent on the basis of seniority? If so, with what details?
- (3) Whether any increase in wages of the workmen should be made? If so, with what details?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor,—vide order, dated 17th October, 1978 :—

- (1) Whether the demands have been espoused by substantial number of workmen?
- (2) Whether dispute No. 2 is not an industrial dispute?
- (3) Whether the workmen are entitled to the grant of bonus for the years 1974-75, 1975-76 and 1976-77? If so, with what details?

(4) Whether the workmen should be made permanent on the basis of seniority ? If so, with what details ?

(5) Whether any increase in wages of the workmen should be made ? If so, with what details ?

and the case was fixed for the evidence of the workman who examined Shri Harban Singh, President, Industrial Workers Union as WW-1, Shri Om Parkash, workman of the management as WW-2, Shri Subhash Chander, workman as WW-3, Shri Brij Lal Gupta workman as WW-4 and Shri Ganesh Dutt, Trade Unionist, Bhiwani as WW-5. The management filed a settlement which was controverted on behalf of the workman that the management had colluded with some workers in the matter of settlement on which the management examined Shri Litu Ram, workman as MW-1, Shri Ram Pal, workman as MW-2, Shri Umed Singh, workman as MW-3, Shri Kailash Singh, workman as MW-4 and Shri Surinder Kumar, Head Time Keeper as MW-5. Arguments were heard.

WW-1 deposed that he was President of the union. A meeting of the union was held to submit the demand notice and about 250 workmen had signed form F. The wages paid to the workmen in the factory were very low in proportion to other factories. In the Hansi Co-operative Mills, the wages of the unskilled workmen was Rs. 345 per month where in T.I.T. and B.T.M. was Rs. 400 per month. The management was paying Rs. 250 per month. No house rent allowance was being paid. He denied the suggestion that there were only 150 workmen on permanent basis. WW-2 corroborated the statement of WW-1. WW-3 stated that there were about 500 workmen in the factory out of which, were 150—200 badli workers. Only 25—30 workers were permanent. Wages were about Rs. 100 less as compared to Hansi Mill WW-4 and WW-5 also corroborated the statement of WW-3.

MW-1 deposed that a meeting of the workers was held on 13th April, 1981 under his presidentship in which the workers of all the shifts totalling about 300 were present. In the meeting the workers had elected Shri Moti Ram, Shri Kailash Chander, Shri Shyam Bihari, Umed to negotiate with the management. It was Ex. MW-1/1. They had entered into settlement with the management which was Ex. MW-1/2 having dissolved bonus at the rate of 8 per cent bonus for the year 1974-75, 1975-76 and 1976-77. They gave up the demand for 1974-75 and 1975-76. They got wages at the minimum rates of wages. In cross-examination, he replied that the meeting took place for 15—20 minutes. Their signatures were taken on paper, not in register. No officer of the Labour Department was present in the meeting. He admitted that the wages of the workers were less than that of B.T.M. and T.I.T. workers. He denied the suggestion that Ex. MW-1/1 and MW1/2 were prepared by the management. MW-2, 3, 4 and 5 corroborated the statement of MW-1.

I have gone through the document Ex. MW-1/2. The only recital was that reference was pending before the Industrial Tribunal for the last 3 years. Considering the industrial peace and cordial relation between the parties, the workers had settled the dispute by negotiation with Shri Kailash Chander Makharia and Gopi Kishan Makharia. They settled the dispute about the bonus by accepting 8.50 per cent for the year 1976-77. It was also resolved that there was no allocable surplus for the year 1975-76 and 1974-75. Demand No. 2 was not pressed and it was further resolved that same will be settled in negotiation. Demand No. 3 was withdrawn because the management has revised it with effect from 1st April, 1981. Ex. MW-1/1 contained about 165 signatures of their thumb impression. In argument, it was contended on behalf of the management that the workmen had settled their dispute with the management and their relations were very cordial. It was also contended that the adjudicating authority should honour the settlement in view of 1958-II-LJ-Page 654 and 1963-II-LJ-Page 647. It was further contended that the balance sheet filed by the management for the year 1974-75 and 1975-76 contained figures of loss. Therefore, there was no surplus for the year 1976-77. As a gesture of good-will by negotiation with the workmen, the bonus was allowed at double rates although prescribed rate was 4 per cent.

I have given a thoughtful consideration to the whole of aspects of the case and find that the same was pending since 1978. There is no bonus payable for the year 1975-76 and 1976-77; according to the balance-sheets. As regard the contention about settlement it was correct that the whole scheme of the Industrial Disputes Act, was to achieve industrial peace by conciliation, arbitration or adjudication. It was also correct that the settlement was always to be preferred to adjudication. The Hon'ble Supreme Court has held that the settlement was to be preferred even after the award had been passed by the adjudicating authority. Therefore, keeping in view industrial peace and negotiation by the workmen with the management, I accept the settlement and pass my award accordingly.

The 16th September, 1982.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 1025, dated the 22nd September, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.